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Dated: November 25, 2002

Signature:

(Shawn P. Foley)

Docket No.: AMSC 3.3-001
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Murphy et al.

Application No.: 09/868,753

Filed: June 21, 2001

For: VACCINE COMPOSITIONS

COPY ✓

Group Art Unit: 1645

Examiner: J. Hines

RESPONSE TO RESTRICTION REQUIREMENTCommissioner for Patents
Washington, DC 20231

Dear Sir:

This is in response to the Office communication mailed October 25, 2002. In response to the rejection based on lack of unity, Applicants hereby elect Group I, claims 1-19 and 26. Applicants respectfully submit that the rejection is proper, so the election is being made with traverse.

The Manual of Patent Examining Procedure (MPEP) states that a group of inventions is considered linked to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding "special technical feature," which is defined as meaning those technical features that define the contribution which each claimed invention, considered as a whole, makes over the prior art. See MPEP §1893.03(d) and Annex B (Unity of Invention, Part 1, Instructions Concerning Unity of Invention). In this case, Applicants respectfully submit that at the very least, the claims belonging to Groups III and IV should be joined with Group I because the former claims, which are methods, are dependent upon claim 1 and thus positively require compositions of Group I. In this regard, the Examiner's attention is respectfully directed to pages AI-53 and 54 of the Annex as stating that the method for determining unity of invention under Rule 13 shall be construed as

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→ permitting, in addition to an independent claim for a given product, an independent claim for a use of the product.

In addition, Applicants respectfully submit that there is unity of invention between the claims in Group II, on the one hand, and the claims in Groups I, III and IV. The special technical features in claims 20-25 are also contained in claim 19, which has been included in Group I. Thus, in the case of Groups I-IV, a common special technical feature is that the DNA molecule encodes a dominant, metal ion-independent repressor protein (e.g., DtxR, or a homologue thereof) that suppresses virulence gene expression in the prokaryote (which makes it suitable for use in the methods of claims 27-32). The Examiner's attention is respectfully directed to Examples 4, 16 and 17 on pages AI-57 and 60 of the Annex.

In view of the foregoing, reconsideration and withdrawal of the rejection based on lack of unity are respectfully requested.

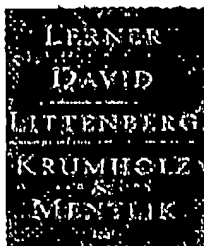
Dated: November 25, 2002 /

Respectfully submitted,

By Shawn P. Foley ✓
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From: SHAWN P. FOLEY**Date: June 2, 2003****No. Pages: 4****Original Mailed: NO****Client/Matter No: AMSC/6****• MESSAGE:**

Per our conversation, attached is a copy of our response to restriction requirement dated 11/25/02

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Atty Docket No.: AMSC 3.3-001

Due Date: November 25, 2002

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Application No.: 09/868,753

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Response To Restriction Requirement (2 pages)

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